

CWP No.14583 of 2022

**#1#
2023:PHHC:136927**

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.14583 of 2022
DECIDED ON -19.10.2023**

SONIA

...PETITIONER

VS

STATE OF HARYANA & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. U.K. Agnihotri, Advocate for the petitioner.

Mr. Pankaj Mulwani, AAG, Haryana.

Mr. R.D. Bawa, Advocate for respondent Nos.2 & 3.

VINOD S. BHARDWAJ, J. ORAL

The challenge in the present writ petition is to order dated 04.04.2019 (Annexure P.8) passed by respondent No.3-Secretary-cum-Chief Executive Officer, Market Committee, Samlakha, District Panipat as well as order dated 11.02.2020 (Annexure P.9) passed by the Appellate Authority i.e Chief Administrator, Haryana State Agriculture Marketing Board whereby the claim of the petitioner for grant of compensation under the Mukhyamantri Kisan Evam Khetihar Mazdoor Jiwan Suraksha Yojna 2013 (for short "Yojna of 2013") on account of death of Pawan Kumar, husband of the petitioner, has been denied.

Counsel for the petitioner has argued that late Pawan Kumar

husband of the petitioner had gone to the fields at about 9 PM for irrigating the crop. A tubewell had been installed at the fields bearing Electricity Connection No. AP24-1090-X. At 2 AM in the morning, he suffered electrocution as the delivery pipe of the tubewell was energized. Pawan Kumar died at the spot. Upon coming to know about the incident, he was rushed to Civil Hospital on 16.07.2018 where he was declared brought dead. Doctors conducted Post-mortem of the dead body and in the post-mortem report, time of death of Pawan Kumar is mentioned as 2 AM on 16.07.2018 while post mortem was conducted at 11 AM. The cause of death concluded by the doctor was as a result of cardiac arrest due to electrocution, which was ante mortem in nature and sufficient to cause death in ordinary course of nature. Information about the incident was given to the police on 16.07.2018 and a DDR No. 27 of even date was recorded at Police station, Samalkha. The deceased was about 33 years of age at the time of the death. The claim was thereafter filed by the petitioner for grant of compensation in terms of the "Yojna of 2013". However, the said claim was declined by the respondents vide order dated 04.04.2019. Feeling aggrieved, the petitioner preferred an appeal but the same was also dismissed vide order dated 11.02.2020. Hence, the writ petition.

Written statement has been filed on behalf of the respondents wherein it is averred that the case of the petitioner does not fall under the Yojna of 2013 and as such the claim was rightly declined. The death had occurred as a result of heart attack and thus the same was not covered under the Yojna of 2013. It is also averred that as per the application submitted by the petitioner, the deceased had suffered electrocution at about 9.00 p.m whereas there was no electricity supply being released by the Distribution

Licensee at that time and the electricity was released only at 12.00 AM. Accordingly, death did not take place in the manner in which it is alleged and the claim deserves to be rejected. The Appellate Authority considered all the issues raised by the petitioner and affirmed the order passed by the competent Authority.

Further, a short reply has been filed on behalf of respondent No.1 i.e the Government reserving its right to contest on merit. The facts were not responded to.

Replication to the written statement filed on behalf of respondent Nos.2 & 3 was filed by the petitioner wherein they denied the averments made in the reply by the respondents and submitted that the cause of death was not the cardiac arrest, rather, the electrocution was catalyst for the cardiac arrest resulting into his death. Hence, immediate cause may be cardiac arrest, however, it has to be deemed as death due to electrocution as has been rightly recorded in the post mortem report. It is further averred that the medical evidence placed on record i.e the post mortem report establishes that he had died due to electrocution on 16.07.2018 while working in the fields at about 2 AM. A mere erroneous mentioning of time in the application submitted by the petitioner as 9 PM should not be formed basis for rejection of the claim. As a matter of fact, the narrative is to the effect that the deceased husband had gone to the field at 9.00 pm and he suffered electrocution only in later part of the night.

Learned counsel appearing on behalf of the petitioner contends that the case of the petitioner would otherwise be covered under the Yojna 2013 and the said claim has been declined only on the ground of dispute about the time of death. While the case of the respondent is that the death occurred at 9 PM on 15.07.2018 and that there was no electricity supply at

the relevant point of time. The stand maintained by the petitioner on the strength of medical evidence is that he died at 2.00 AM. He further replies to the defence taken by the respondent that the death was an outcome of cardiac arrest that it is misconceived since they have failed to take into consideration that cardiac arrest was caused due to electrocution.

Mere mentioning of time of leaving to the fields cannot lay the basis of declining the claim especially when it is not the case of any of the respondents that death of Pawan Kumar did not occur in the fields or due to electrocution. Once the factum of death having taken place in the field due to electrocution is established, there is no basis to conclude that the death was not on account of electrocution. Thus, the defence of the respondents that there was no electricity supply itself stands belied by the cause of death as recorded by the doctors.

Counsel for the respondents-distribution licensee reiterates the abovesaid stand and contends that the applicant has mentioned that deceased Pawan Kumar had gone to field at 8 P.M and died due to electrocution at 9.00 P.M As there was no energisation of electricity, there was no occasion for his having suffered electrocution injury.

I have heard learned counsel for the parties and gone through the documents appended with the present petition.

The following facts emerge from a perusal of the pleadings and on rival contentions of the parties:

- i) Deceased Pawan Kumar had gone to the field on 15.07.2018/16.07.2018 to irrigate his crop.
- ii) That the deceased died in the fields on account of cardiac arrest due to electrocution as per medical opinion of the Doctors.
- iii) Post-mortem report specifically recorded that

the time of death is 2.00 AM on 16.7.2018.

iv) That the case of the respondents itself is that electricity supply had been resumed from 00 hours on the intervening night of 15/16.07.2018 and the electricity current was being supplied at 2AM.

A DDR was recorded at police station Samalkha and the factum of death having taken place in the field and due to electrocution is not disputed. Hence, neither the cause nor the manner of death is disputed.

The aforesaid circumstances clearly establishes the manner of death and the place of death. The only issue which survives is as to whether the death had taken place at the time as recorded in the post mortem report or it was at the time as mentioned in the application submitted by the petitioner.

It is not denied by the respondent that the application for grant of compensation was submitted later in point of time and the post mortem report is the immediate document succeeding the incident in question.

It is also not the case that the applicant had accompanied deceased Pawan Kumar to the fields and as such there can be no presumption that she would be fully and correctly aware of the time at which the incident took place. The same would be based more on guess work that may have been derived from the circumstances of the case. Hence, a mere description that he had died due to electrocution at 9 PM on 15.07.2018 is at best an erroneous representation. It is not the suggestive case of the respondents that the deceased died due to electrocution at any place other than the fields and that the body has been brought there. The department would have definitely known about any accidental cause in case the incident would have taken at place other than where it is being suggested. Moreover, the issue in question was informed to the police. Had

there been any other narrative, there was no occasion for the police to have not noticed the same.

The respondent has not referred to any documents on the basis of which it can be concluded that the incident did not take place in the manner and at the place as suggested. Hence, the mere error with respect to the time of the incident especially when the petitioner widow was not at the place of occurrence and would not have known about the details should not be constructed in a manner so as to deprive her of the benefits which would have otherwise accrued under the scheme of Mukhyamantri Kisan Evam Khetihar Mazdoor Jiwan Surksha Yojna 2013.

The above said scheme is a welfare scheme and intended to give financial assistance to the family of the deceased/farm labour in harness in order to overcome the immediate hardship arising as a result of untimely death of a bread earner. The objective being welfare based any such technical approach in order to deny such rightful dues to a beneficiary would operate contrary to the object of the scheme. The respondents have denied the relief which accrued in favour of the petitioner. It was not appropriate to do so merely on the basis of some suspicion or some contradiction in the reported time. The degree of proof required in a welfare scheme is not that of proof beyond any doubt. The approach in a welfare scheme is based on probabilities and unless the circumstances/facts, on verification, demolish the claim, the authority should exercise the powers broadly and with sympathy. The benefit is required to be extended in such cases where claimants are not eye witnesses to the occurrence and may have derived information on the basis of guess work.

I find that the orders passed by the Authorities below suffer from adoption of a hyper-technical approach while dealing with the claim

raised by the petitioner and the application has been rejected on the objection that run contrary to the intent of the scheme.

The impugned orders are accordingly set aside and the present petition is allowed.

The respondent are directed to release the due compensation to the petitioner under the Mukhyamantri Kisan Evam Khetihar Mazdoor Jiwan Surksha Yojna 2013 within a period of 8 weeks of receipt of certified copy of this order.

(VINOD S. BHARDWAJ)
JUDGE

19.10.2023

Manoj

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No